



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Robert D. Fish
Rutan & Tucker, LLP
14th Floor
611 Anton Blvd.
Costa Mesa CA 92626

COPY MAILED

MAY 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Paul Silinger et al. :
Application No. 10/765,782 : DECISION ON PETITION
Date Deposited: January 26, : UNDER 37 C.F.R. §1.10(E)
2004 :
Attorney Docket No. H0002233 US :
- 4015 :
Title: INTERNAL HEAT SPREADER :
PLATING METHODS AND DEVICES :

This is a decision on the petition under 37 C.F.R. §1.10(e), filed January 26, 2004, requesting that application number 10/765,782 be accorded a filing date of June 11, 2003.

The application was deposited on January 26, 2004, along with the instant petition. Petitioner has alleged that the application was first deposited on June 11, 2003. Petitioners have included a copy of the Express Mail Label having a number of EV406604014US¹. Applicants request that the application be accorded a filing date of June 11, 2003. Petitioner has further submitted a declaration of facts from the paralegal who purportedly deposited this application with the USPS on June 11, 2003.

Regarding the Express Mail label, it is noted that the label contains a "date-in" of June 11, 2003.

¹ The Utility Patent Application Transmittal sheet which was deposited with the present petition has been reviewed, and it is noted that it contains this same Express Mail label number.

Unfortunately both the Office's USPS Express Mail Finder Database computer program and the United States Postal Service's website (<http://www.usps.com/shipping/trackandconfirm.htm>) were inconclusive.

Judging by the date-in on the express mail label, it appears that the package was indeed deposited with the USPS on June 11, 2003.

Petitioner sets forth that on September 25, 2003, she first learned that the package had not been received by the Office. A petition was not filed at that time, however, as the paralegal who deposited the application with the USPS was on maternity leave, and "a petition under 37 C.F.R. 1.10...requires that a statement, signed by the person who deposited the documents with the USPS be included with the petition setting forth date and time of deposit... (petition, page 2)."

Unfortunately, this petition was filed over six months after the filing of the application, and the relevant regulation requires any petition under this section to be filed promptly. While it is understandable that employees take extended periods of leave at times, 37 C.F.R. §1.10(e)(1) cannot be waived without the filing of a petition under 37 C.F.R. §1.183.

Accordingly, the petition is DISMISSED.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.10(e)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner. The Petitioner may wish to consider telephoning the undersigned at the number provided below to confirm that the documents were delivered to the undersigned. Please note that the delivery process within the PTO can take as much as three weeks.

Any renewed petition may be submitted by mail², hand-delivery³, or facsimile⁴.

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

3 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

4 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned.

See Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to ensure that your submission is delivered to the undersigned.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at <http://www.uspto.gov/web/forms/sb0122.pdf>.

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.



Paul Shanowski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: Sandra P. Thompson
Bingham McCutchen
600 Anton Blvd., 18th Floor
Costa Mesa, CA 92626